IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 81 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

CHEMICOAT LTD.

Appearance:
MR BB NAIK with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 16/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

At the instance of the revenue, the Income-tax Appellate Tribunal, Ahmedabad Bench "C" has referred the following question of law for our opinion in respect of Assessment Year 1980-81 :-

"Whether on the facts and in the circumstances of the case the Tribunal was right in law in coming to the conclusion that the expenses of Rs.4,02,846/- for setting up a new unit viz. Kandla Project was a revenue expenditure ?"

2. Though served, no one appears on behalf of the respondent. We have heard the learned counsel for the revenue. The learned counsel for the revenue states that the controversy raised in the present reference is squarely covered by the decision of this Court rendered in CIT vs. Chemi Coat Ltd. (this very assessee) in respect of Assessment Years 1977-78 and 1978-79 decided by the Division Bench comprising B.C. Patel and K.M. Mehta, JJ on December 20, 1999 in ITR No. 260 of 1984 with ITR No. 333 of 1984.

In the above referred to decision, the Division Bench has taken a view that the expenses incurred for setting up a new unit i.e. Kandla Project was a revenue expenditure.

3. In view of the decision of the High Court referred to above, the question referred to us is answered in favour of the assessee and against the revenue. The reference stands accordingly disposed of with no order as to costs.

(J.M. Panchal, J.) (M.S. Shah, J.)

sundar/-